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May 31, 2024

BY ECF

Honorable P. Kevin Castel
United States District Court
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Courtroom 11D
New York, NY 10007

Re: *Fairstein v. Netflix, Inc., et al.*
Case No. 20-cv-08042 (PKC)

Dear Judge Castel:

I write in response to the Court's Order dated today (May 31, 2024) (ECF No. 420). I respectfully submit this letter motion to Amend the Final Pre-Trial Order to list me as trial counsel for plaintiff Linda Fairstein, as set forth in the accompanying Certification of Henry E. Klingeman.

Thank you for Your Honor's thoughtful consideration.

Respectfully submitted,

/s/ Henry E. Klingeman

Henry E. Klingeman, Esq.

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c: All counsel

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Attorney for Plaintiff Linda Fairstein

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<hr/>	:	No. 20-cv-08042 (PKC)
LINDA FAIRSTEIN	:	
	:	
	:	CERTIFICATION OF HENRY E. KLINGEMAN
v.	:	
	:	
NETFLIX, INC.,	:	
AVA DUVERNAY, and	:	
ATTICA LOCKE	:	
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I, HENRY E. KLINGEMAN, make the following statement:

1. I am an attorney-at-law in good standing in the State of New Jersey and a member in good standing of the Bar of the United States District Court for the Southern District of New Jersey.
2. I submit this Certification in support of Plaintiff Linda Fairstein's Motion to Amend the Final Pre-Trial Order to list me as trial counsel, in response to this Court's May 31, 2024 Order (ECF No. 420).
3. I entered my appearance on March 26, 2024. (ECF No. 403)
4. I appeared on the record at the Final Pre-Trial Conference on April 3, 2024. (ECF 04/03/2024 minute entry)
5. I am prepared to appear and act as trial counsel to Ms. Fairstein when trial begins on June 10, 2024, along with my co-counsel, attorneys Andrew Miltenberg, Kara Gorycki, and Rodman Streicher. My co-counsel and I have divided the trial tasks, specifically witness

examinations, to ensure that we examine witnesses concerning relevant matters within the time limits imposed by the Court.

6. Attorney Stuart Bernstein, who is listed as trial counsel in the Final Pre-Trial Order, will not be participating in the trial. Accordingly, there will not be an excess of counsel on behalf of Ms. Fairstein, should the Court list me as trial counsel in the Final Pre-Trial Order.

7. I have familiarized myself with the Individual Practices of the Honorable P. Kevin Castel.

8. I have not requested any adjustments to the Court's schedule, including the trial schedule, or any other accommodations from the Court.

9. I have familiarized myself with the record of proceedings, the discovery, the proposed trial exhibits, and the Court's rulings on pretrial motions, including the Motion to Dismiss, the Motion for Summary Judgment, and the Motions In Limine.

10. I have been diligently preparing for trial since entering my appearance, including preparing to give the opening statement, the closing argument, and the examination of witnesses including the named defendants. Further, I am prepared to participate in all aspects of the trial proceedings, including jury selection, objections, motions, and jury instructions.

11. Ms. Fairstein and my co-counsel have asked me to perform the trial tasks set forth in the previous paragraph. No other of my co-counsel has prepared to perform those tasks. As trial is scheduled for June 10 and I anticipate that the opening statement could be given as soon as that date, it would be a manifest injustice to Ms. Fairstein if I were not permitted by the Court to be listed as trial counsel and remain responsible for those trial tasks. My co-counsel are preparing to perform other tasks, including examining other witnesses; it would be a manifest injustice to Ms. Fairstein if they were now obligated to perform the tasks for which I am

responsible. Moreover, it will cause no prejudice to the defendants or interfere with the Court's intent to conduct an efficient and orderly trial to allow me to do what I am already preparing to do.

12. In preparation, I have been assisted by my law firm colleagues, Emma Enright, Alexandria Natelli, and Nancy Klingeman. At trial, I will be assisted by my colleagues, as well. Among other things, my colleagues will assist with timekeeping and with documenting the admission of evidence, as ordered by the Court. Moreover, with their support and assistance, I will be able to perform my trial responsibilities effectively, to the Court's satisfaction.

13. My request to be listed as trial counsel is not a material change to the Final Pre-Trial Order that will disrupt or alter the trial proceedings in any way. Rather, I hope my participation—as an experienced federal trial attorney—will facilitate a well-conducted trial on Ms. Fairstein's behalf.

14. For the Court's benefit, I am a Fellow of the American College of Trial Lawyers, a former Assistant U.S. Attorney in the District of New Jersey, a former Law Clerk to the Honorable J. Daniel Mahoney of the U.S. Court of the Appeals for the Second Circuit, and a graduate of Fordham Law School. My law firm, Klingeman Cerimele, Attorneys, is based in Morristown, New Jersey. I have represented parties in civil and criminal litigation, including pursuant to the Criminal Justice Act, in courts around the United States, including the Southern District of New York.

15. I would gladly provide the Court with any other information about myself or my participation as Ms. Fairstein's trial counsel.

16. For the foregoing reasons, I respectfully request that this Court amend the Final Pre-Trial Order to list me as trial counsel.

I, the undersigned HENRY E. KLINGEMAN declare under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing is true and correct.


HENRY E. KLINGEMAN

Dated: May 31, 2024